

AMENDED IN ASSEMBLY MARCH 29, 2012

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

ASSEMBLY BILL

No. 2564

Introduced by Assembly Member Ma

February 24, 2012

An act to amend ~~Section 40051 of~~ Sections 21080.21, 21100.2, and 21168.6 of, and to add Section 21063.5 to, the Public Resources Code, relating to ~~solid waste~~ environmental quality.

LEGISLATIVE COUNSEL'S DIGEST

AB 2564, as amended, Ma. ~~Solid waste management. Environmental quality: pipelines: project applicants.~~

(1) *The California Environmental Quality Act (CEQA) requires a lead agency, as defined, to prepare, or cause to be prepared, and certify the completion of, an environmental impact report (EIR) on a project that it proposes to carry out or approve that may have a significant effect on the environment or to adopt a negative declaration if it finds that the project will not have that effect. CEQA exempts a project of less than one mile in length within a public street or highway or any other public right-of-way for the installation of a new pipeline, as defined, or the maintenance, repair, restoration, reconditioning, relocation, replacement, removal, or demolition of an existing pipeline.*

This bill would revise that exemption for pipeline projects to instead exempt a project of less than 8 miles in length, but would restrict the exemption to activities that do not take place along more than one mile at any one time. The bill would also revise the definition of the term pipeline for purposes of this exemption to delete the exclusion for surface facilities related to the operation of the underground facility.

The bill would also require a public agency to establish a process that would allow an applicant for a natural gas pipeline safety enhancement project, as defined, to elect to pay additional fees to be used by the public agency in determining whether to approve that project by entering into a contract with one or more 3rd parties to assist the public agency to perform the analysis. The bill would impose a state-mandated local program by imposing new duties upon local agencies.

(2) CEQA requires, for purposes of actions against the Public Utilities Commission, the writ of mandate to lie only from the Supreme Court to the commission.

This bill would require, in an action or proceeding against a public agency involving a natural gas pipeline safety enhancement project, the writ of mandate to lie only from the Supreme Court to the public agency.

(3) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

~~Existing law requires the Department of Resources Recycling and Recovery and local agencies, when implementing the California Integrated Waste Management Act of 1989, to promote certain waste management practices in a specified order of priority.~~

~~This bill would make a technical nonsubstantive change to those requirements.~~

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~-yes.
State-mandated local program: ~~no~~-yes.

The people of the State of California do enact as follows:

1 *SECTION 1. The Legislature finds and declares all of the*
2 *following:*

3 *(a) It is a matter of statewide concern to achieve the timely*
4 *completion of natural gas pipeline safety enhancements, including*
5 *programs for maintenance and operation enhancements, and to*
6 *contribute to the public's confidence in the safety of natural gas*
7 *pipelines and their ongoing maintenance and operation.*

1 **(b)** *It is in the public interest to accelerate the permitting process*
2 *for natural gas pipeline safety enhancements, including programs*
3 *for maintenance and operation enhancements, and for permitting*
4 *agencies to give these projects priority in processing permits.*

5 **(c)** *It is in the public interest to enable state agencies to better*
6 *carry out their permitting responsibilities by providing applicants*
7 *an option for enhancing available resources for permit processing.*

8 **SEC. 2.** *Section 21063.5 is added to the Public Resources Code,*
9 *to read:*

10 21063.5. *“Natural gas pipeline safety enhancement project”*
11 *means an activity undertaken by a public utility as part of a*
12 *program to enhance the safety of intrastate natural gas pipelines*
13 *in accordance with a decision, rule, or regulation adopted by the*
14 *Public Utilities Commission.*

15 **SEC. 3.** *Section 21080.21 of the Public Resources Code is*
16 *amended to read:*

17 21080.21. **(a)** *This division does not apply to any project of*
18 *less than ~~one mile~~ eight miles in length within a public street or*
19 *highway or any other public right-of-way for the installation of a*
20 *new pipeline or the maintenance, repair, restoration, reconditioning,*
21 *relocation, replacement, removal, or demolition of an existing*
22 *pipeline, if the activity does not take place along more than one*
23 *mile at any one time. For*

24 **(b)** *For purposes of this section, “pipeline” includes subsurface*
25 *facilities but does not include any surface facility related to the*
26 *operation of the underground facility any valve, flange, meter, or*
27 *other piece of equipment that is directly attached to the pipeline.*

28 **SEC. 4.** *Section 21100.2 of the Public Resources Code is*
29 *amended to read:*

30 21100.2. **(a)** **(1)** *For projects described in subdivision (c) of*
31 *Section 21065, each state agency shall establish, by resolution or*
32 *order, time limits that do not exceed the following:*

33 **(A)** *One year for completing and certifying environmental*
34 *impact reports.*

35 **(B)** *One hundred eighty days for completing and adopting*
36 *negative declarations.*

37 **(2)** *The time limits specified in paragraph (1) shall apply only*
38 *to those circumstances in which the state agency is the lead agency*
39 *for a project. These resolutions or orders may establish different*
40 *time limits for different types or classes of projects, but all limits*

1 shall be measured from the date on which an application requesting
2 approval of the project is received and accepted as complete by
3 the state agency.

4 (3) No application for a project may be deemed incomplete for
5 lack of a waiver of time periods prescribed in state regulations.

6 (4) The resolutions or orders required by this section may
7 provide for a reasonable extension of the time period in the event
8 that compelling circumstances justify additional time and the
9 project applicant consents thereto.

10 (b) If a draft environmental impact report, environmental impact
11 report, or focused environmental impact report is prepared under
12 a contract to a state agency, the contract shall be executed within
13 45 days from the date on which the state agency sends a notice of
14 preparation pursuant to Section 21080.4. The state agency may
15 take longer to execute the contract if the project applicant and the
16 state agency mutually agree to an extension of the time limit
17 provided by this subdivision.

18 (c) (1) *A public agency shall establish a process that would*
19 *allow a natural gas pipeline safety enhancement project applicant*
20 *to elect to pay additional fees to be used by the public agency in*
21 *determining whether to approve a natural gas pipeline safety*
22 *enhancement project by entering into a contract with one or more*
23 *third parties to assist the public agency to perform the analysis,*
24 *consistent with Article VII of the California Constitution and*
25 *Section 19130 of the Government Code and the charter of a*
26 *chartered city or county, as applicable. The public agency may,*
27 *but is not required to, offer a project applicant the option to pay*
28 *those fees and subject a project to this process.*

29 (2) *The amount of the fees charged by the public agency*
30 *pursuant to this subdivision shall be conditioned upon the natural*
31 *gas pipeline safety enhancement project applicant agreeing to that*
32 *amount and electing to proceed with the retention of a third party*
33 *pursuant to this subdivision.*

34 (3) *All fees paid by a natural gas pipeline safety enhancement*
35 *project applicant shall be used exclusively for analysis of that*
36 *applicant's application for certification.*

37 SEC. 5. *Section 21168.6 of the Public Resources Code is*
38 *amended to read:*

39 21168.6. In any action or proceeding under Sections 21168 or
40 21168.5 against the Public Utilities Commission *or in an action*

1 *or proceeding against a public agency involving a natural gas*
2 *pipeline safety enhancement project, the writ of mandate shall lie*
3 *only from the Supreme Court to such that commission or public*
4 *agency.*

5 *SEC. 6. No reimbursement is required by this act pursuant to*
6 *Section 6 of Article XIII B of the California Constitution because*
7 *a local agency or school district has the authority to levy service*
8 *charges, fees, or assessments sufficient to pay for the program or*
9 *level of service mandated by this act, within the meaning of Section*
10 *17556 of the Government Code.*

11 ~~SECTION 1. Section 40051 of the Public Resources Code is~~
12 ~~amended to read:~~

13 ~~40051. In implementing this division, the department and local~~
14 ~~agencies shall do both of the following:~~

15 ~~(a) Promote the following waste management practices in order~~
16 ~~of priority:~~

17 ~~(1) Source reduction.~~

18 ~~(2) Recycling and composting.~~

19 ~~(3) Environmentally safe transformation and environmentally~~
20 ~~safe land disposal, at the discretion of the city or county.~~

21 ~~(b) Maximize the use of all feasible source reduction, recycling,~~
22 ~~and composting options in order to reduce the amount of solid~~
23 ~~waste that must be disposed of by transformation and land disposal.~~
24 ~~For wastes that cannot feasibly be reduced at their source, recycled,~~
25 ~~or composted, the local agency may use environmentally safe~~
26 ~~transformation or environmentally safe land disposal, or both of~~
27 ~~those practices.~~